

LEGISLATURE OF NEBRASKA

ONE HUNDRED FIRST LEGISLATURE

FIRST SESSION

LEGISLATIVE BILL 531

FINAL READING

Introduced by Sullivan, 41.

Read first time January 21, 2009

Committee: Revenue

A BILL

1 FOR AN ACT relating to the Nebraska Advantage Microenterprise Tax
2 Credit Act; to amend section 77-5903, Revised Statutes
3 Cumulative Supplement, 2008; to redefine a term; to
4 harmonize provisions; and to repeal the original section.
5 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 77-5903, Revised Statutes Cumulative
2 Supplement, 2008, is amended to read:

3 77-5903 For purposes of the Nebraska Advantage
4 Microenterprise Tax Credit Act:

5 (1) Actively engaged in the operation of a microbusiness
6 means personal involvement on a continuous basis in the daily
7 management and operation of the business;

8 (2) Distressed area means a municipality, county,
9 unincorporated area within a county, or census tract in Nebraska
10 that has (a) an unemployment rate which exceeds the statewide
11 average unemployment rate, (b) a per capita income below the
12 statewide average per capita income, or (c) had a population
13 decrease between the two most recent federal decennial censuses;

14 (3) Equivalent employees means the number of employees
15 computed by dividing the total hours paid in a year by the product
16 of forty times the number of weeks in a year;

17 (4) Microbusiness means any business employing five
18 or fewer equivalent employees at the time of application.
19 Microbusiness does not include a farm or livestock operation
20 unless (a) the person actively engaged in the operation of the
21 microbusiness has a net worth of not more than ~~two hundred~~ three
22 hundred fifty thousand dollars, including any holdings by a spouse
23 or dependent, based on fair market value, or (b) the investment
24 or employment is in the processing or marketing of agricultural
25 products, aquaculture, agricultural tourism, or the production of

1 fruits, herbs, tree products, vegetables, tree nuts, dried fruits,
2 organic crops, or nursery crops;

3 (5) New employment means the amount by which the total
4 compensation plus the employer cost for health insurance for
5 employees paid during the tax year to or for employees who
6 are Nebraska residents exceeds the total compensation paid plus
7 the employer cost for health insurance for employees to or for
8 employees who are Nebraska residents in the tax year prior to
9 application. New employment does not include compensation to any
10 employee that is in excess of one hundred fifty percent of the
11 Nebraska average weekly wage. Nebraska average weekly wage means
12 the most recent average weekly wage paid by all employers as
13 reported by October 1 by the Department of Labor;

14 (6) New investment means the increase during the tax year
15 over the year prior to the application in the applicant's (a)
16 purchases of buildings and depreciable personal property located in
17 Nebraska, (b) expenditures on repairs and maintenance on property
18 located in Nebraska, neither subdivision (a) or (b) of this
19 subdivision to include vehicles required to be registered for
20 operation on the roads and highways of this state, and (c)
21 expenditures on advertising, legal, and professional services. If
22 the buildings or depreciable personal property is leased, the
23 amount of new investment shall be the increase in average net
24 annual rents multiplied by the number of years of the lease for
25 which the taxpayer is bound, not to exceed ten years;

1 (7) Related persons means (a) any corporation,
2 partnership, limited liability ~~corporation~~, company, cooperative,
3 including cooperatives exempt under section 521 of the Internal
4 Revenue Code of 1986, as amended, limited cooperative association,
5 or joint venture which is or would otherwise be a member of
6 the same unitary group, if incorporated, or any person who is
7 considered to be a related person under either section 267(b) and
8 (c) or section 707(b) of the Internal Revenue Code of 1986, as
9 amended, and (b) any individual who is a spouse, parent if the
10 taxpayer is a minor, or minor son or daughter of the taxpayer; and

11 (8) Taxpayer means any person subject to the income tax
12 imposed by the Nebraska Revenue Act of 1967, any corporation,
13 partnership, limited liability company, cooperative, including a
14 cooperative exempt under section 521 of the Internal Revenue Code
15 of 1986, as amended, limited cooperative association, or joint
16 venture that is or would otherwise be a member of the same unitary
17 group, if incorporated, which is, or whose partners, members,
18 or owners representing an ownership interest of at least ninety
19 percent of such entity are, subject to such tax, and any other
20 partnership, limited liability company, subchapter S corporation,
21 cooperative, including a cooperative exempt under section 521 of
22 the Internal Revenue Code of 1986, as amended, limited cooperative
23 association, or joint venture when the partners, shareholders,
24 or members representing an ownership interest of at least ninety
25 percent of such entity are subject to such tax.

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1 The changes made to this section by Laws 2008, LB 177,
2 shall be operative for all applications for benefits received on or
3 after July 18, 2008.

4 Sec. 2. Original section 77-5903, Revised Statutes
5 Cumulative Supplement, 2008, is repealed.